

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLIAMSTOWN that ARTICLE 907 of the Codified Ordinances of the City is hereby enacted enacting regulations for Trees:**

**ARTICLE 907**

**Trees**

*CROSS REFERENCES*

*General powers of every municipality and governing body - see West Virginia Code §8-12-5(29)*

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**907.01 SHORT TITLE.**

This article shall be known and may be cited as the Williamstown Tree Ordinance.

**907.02 DEFINITIONS.**

Definitions. The following terms when used in this article shall have the meaning set forth in this section unless the context requires otherwise:

(a) "City" means the Williamstown Mayor, Williamstown City Council, all Williamstown City Departments, Williamstown Tree Commission, or their designated agent.

(b) "Council" means the Williamstown City Council, which includes the Mayor and all members of the municipal governing body.

(c) "Damage" means injure to or destruction of a tree, including but limited to uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the nature of grade above a root system or around the trunk; surrounding the tree with impervious paving material; or trauma caused by accident or collision.

(d) "Landmark Tree" means a tree which that has special significance because one or more of the following criteria apply: rare species, old age, unusual size, distinct location, association with an historical event or person, scenic enhancement, or one or more unique characteristic(s) determined by the City Tree Committee to qualify it for such classification.

(e) "Nuisance" means any tree, or limb thereof, that has an infectious disease or insect, is dead or dying, obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.

(f) "Yard Tree" means trees, shrubs, buses, and all other woody vegetation on or in public parks and all areas owned by the City, or to which the public has free access as a park.

(h) "Public property" means all grounds and right-of-way(s) owned or maintained by the City

(i) "Shrub" means a woody plant, generally smaller than a tree, typically with multiple stems branching from or near the ground.

(j) "Street Tree" means trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, and ways within the City of Williamstown. Streets, avenues, and ways means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic and extending from property line to property line. The City of Williamstown shall assume responsibility for maintenance and removal of trees on public rights-of-way only for trees the City of Williamstown has planted, subsequent to the adoption of this ordinance, provided however, that nothing contained in this ordinance shall create an liability upon the City or result in a civil action against the City by an person for damage to property or persons.

(k) "Top or Topping" means the non-standard practice of cutting back of limbs to stubs within the tree's crown to such a degree so as remove the normal canopy and disfigure the tree.

(l) "Tree" means woody perennial usually having one dominant trunk and a mature height greater than five (5) meters (sixteen (16) feet).

(m) "Yard Tree" means trees, shrubs, bushes, and al other woody vegetation now or hereafter growing on any private property in the City of Williamstown.

### **907.03 STATEMENT OF OBJECTIVE.**

The objective of this article is to manage removal and replacement of trees within the City of Williamstown; to monitor species, provide for the aesthetic quality of the Cityscape, and provide for citizen protection by controlling tree growth, size, and condition within the limits of the City of Williamstown. The provisions of this ordinance are enacted to:

(a) Provide the City government with authority over trees and shrubs located within the street rights-of-way, parks, and other public places of the City; and over trees, and shrubs located on private property as permitted by state law.

(b) Maintain city trees and forests in good health using appropriate arboricultural practices;

- (c) Establish and maintain optimal level of age and species diversity that are ideal for our region through efficient and cost-effective management of the urban forest;
- (d) Select, situate, and maintain street trees appropriate to maximize ecosystem services and minimize hazard, nuisance, hardscape damage, and maintenance costs;
- (e) Centralize tree management under a City-appointed Commission with the necessary expertise;
- (f) Foster support for community forestry through educational projects that encourage good tree management on privately owned properties;
- (g) Promote equity, diversity, and inclusion in all aspects of community forestry;
- (h) Obtain and coordinate the Tree City USA designation.

#### **907.4 LEGAL STATUS.**

(a) Conflict with Other Laws. Whenever the provisions of any other statute require more restrictive standards that are required by this article, the provisions of such statute shall govern. The provisions of this article shall not be interpreted so as to negate or modify any provision of the West Virginia State Building Code as adopted by the City, which may be enforced simultaneously with this article subject, however, to the right of individuals to be free from double jeopardy under any multiple criminal penalty provisions thereof.

(b) Severability. Should any section or provision of this article be declared unconstitutional or invalid such declaration shall not affect the validity of the article as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(c) Effective Date. This article shall take effect and be in force immediately upon adoption.

#### **907.05 TERM OF OFFICE.**

(a) The Williamstown Tree Commission shall consist of five persons, all of whom shall be electors of the City; four shall be appointed by Council; and one member of Council, who shall be appointed by the Mayor.

(b) The members of the Commission shall serve without compensation and the four members appointed by Council shall serve for a term of three years or until their successors are appointed; provided, however, the first appointments of the members of the Commission shall be for terms of one, two or three (3) years, respectively. The members of Council shall serve on the Commission during his or her continuance in office.

#### **907.06 DUTIES AND RESPONSIBILITIES.**

(a) It shall be the responsibility of the Williamstown Tree Commission administer the care preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.

(b) To serve as a resource to assist the Parks Committee or other departments, boards, or other committees, on tree-related issues. The Tree Commission should be notified in advance of any planned activities that may cause harm to city trees, except in the case of emergencies;

(c) To study and make recommendations to the Council regarding the maintenance, protection, and removal of trees on public property; or when requested by the Council, to consider, investigate, make findings, report, and make recommendations upon any special matter or question lying within the scope of its powers and duties as herein set forth;

(d) To resolve conflicts between trees and structures. Where sidewalk or curb damage due to tree roots occurs, or other conflicts that arise between trees in the City's rights-of-way and the City's hardscape, every reasonable effort should be made to correct the problem without removing or damaging the tree;

(e) To prepare and update, annually, a written City-wide Tree Master Plan that guides the planting, maintenance, protection, and removal of trees on public lands. Such plan shall consider existing and future utility locations and environmental factors in relation to existing and future tree species on public lands, as provided in this article or other ordinances, provide a status report of Landmark Trees within the City, and include recommended changes to the Tree Ordinance as needed. The plan will be submitted to the Council for their review and consideration;

(f) To coordinate tree plantings on public lands, as identified in the Tree Master Plan;

(g) To develop a risk assessment policy for the City's use that identifies and prioritizes the factors to be considered for removing trees from public properties. The policy and all subsequent revisions will be submitted to the Council for approval;

(h) Upon request, to educate owners of private land regarding the selection of species and care of trees;

(i) To assist the Planning Committee with the review and comment on landscaping and buffering plans of private developments;

(j) To assist the Parks and Recreation Department in planting, maintaining, protecting, and removing trees on City-owned recreational lands, green spaces, and properties, and to provide review and comments on the proposed landscaping plans of all recreational lands and properties within the City;

(k) To accept contributions, donations, or other funds for the planting, maintenance, protection, and removal of trees throughout the City based on the Tree Commission's donation policy, with said monies will be placed in the city budget;

(l) To propose to the City Council for review and adoption, rules, regulations, and specifications concerning the trimming, planting, pruning, and protection of trees;

(m) To obtain and coordinate the City's Tree City USA designation.

#### **907.07 OPERATION.**

(a) The Williamstown Tree Commission shall choose its own officers. They should consist of a Chairperson, Vice-Chairperson, Secretary, and other officers as may be needed.

(b) The Commission shall make its own rules and regulations and keep a journal of its proceedings. A majority of members present shall be a quorum for the transaction of business.

(c) At the request of the Tree Commission, the West Virginia Division of Forestry Coordinator may serve as ex-officio non-voting member of the Tree Commission.

#### **907.08 STREET TREES, PARK TREES, AND YARD TREES SPECIES TO BE PLANTED.**

The following list is the current official Suggested Street Tree and Park Tree Species List for the City of Williamstown, West Virginia.

No species other than those included on this list may be planted as Street Trees, Park Trees, or Yard Trees without written permission of the Williamstown Tree Commission.

<b>OFFICIAL SUGGESTED STREET TREE, PARK TREE, AND YARD TREE SPECIES LIST</b>			
<b>STREET AND PARK TREES</b> (Small Trees: Less than 30' Mature Height)		<b>PARK AND YARD TREES</b> (Large Trees: 30' to 50' Mature Height)	
<b>Common Name</b>	<b>Shape</b>	<b>Common Name</b>	<b>Shape</b>
Arborvitae	Pyramidal	Corktree, Amur	Oval
Cherry, Oriental	Upright	Ginko (males only)	Pyramidal
Cherry, Sargent	Columnar	Holly, American	Pyramidal
Cherry, Yoshino		Honey locust, Thornless	Upright
Crabapple, Flowering	Varies	Hornbeam, American	Pyramidal
Dogwood, Flowering	Wide spreading	Maple, Norway	Oval
Dogwood, Korean	Wide spreading	Maple, Red	Columnar/Oval
Hawthorne, Crimson Cloud	Rounded	Oak, Post	Rounded
Hawthorne, LaValle	Rounded	Sourwood	Pyramidal
Hawthorne, Washington	Rounded	Scarlet Oak	Upright
Hawthorne, Winter King	Rounded	Red Oak	Upright
Holly, Foster	Pyramidal	Yellow Poplar	Upright
Lilac, Japanese Tree	Rounded		
Magnolia, Jane	Rounded/Oval		
Magnolia, Saucer	Rounded/Oval		
Magnolia, Star	Rounded/Oval		
Maple	Oval	<b>Various species at the discretion of the Forester.</b>	
Redbud	Rounded		
Serviceberry	Rounded		
Silverbell	Columnar		
White Fringe Tree	Rounded		

**907.09 SPACING.**

The spacing of Street Trees will be in acceptance with the three species size classes on the official Suggested Street Tree Species List, and no trees may be planted closer together than the following:

- Small Trees      30 feet
- Large Trees      50 feet

**907.10 DISTANCE FROM CURBS AND SIDEWALKS.**

(a) The Williamstown Tree Commission shall have the authority to regulate the planting, trimming, and removal of trees on Municipal public property, by any person, within the corporate boundaries in the City of Williamstown. Council shall have the right to review the conduct, acts, and decisions of the Williamstown Tree Commission. Any person may appeal from any ruling or order of the Williamstown Tree Commission to the City Council who may hear the matter and the make final decision.

(b) Any person within said corporate boundaries desiring to plant, trim, or remove a tree on municipal public property shall first secure permission from said Williamstown Tree Commission, in writing, and if necessary, shall execute a waiver of responsibility, which form is available upon request from the City of Williamstown.

(c) No Street Tree shall be planted, or an existing tree maintained at, or near an intersection that does not permit a clear view for vehicular traffic down a side street or alley from said intersection measured along the curb line.

(d) No trees shall be planted closer than ten (10) feet away from any fire hydrant.

#### **907.11 UTILITIES.**

No Street Trees other than those species listed as "Small Trees" on the official Suggested Street Tree List may be planted within ten (10) lateral feet of any known underground water line, sewer line, transmission line, or other utility. No trees shall be planted closer than ten (10) feet away from any fire hydrant.

#### **907.12 PUBLIC TREE CARE.**

(a) The City of Williamstown Tree Commission shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, avenues, alleys, lanes, squares, and public grounds, as may be necessary to ensure public safety, preserve or enhance the symmetry and beauty of such public grounds.

(b) The Tree Commission may remove or cause or order to be removed any tree, shrub, or part thereof, which is in an unsafe condition or which by reason of its own nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees are in accordance with the official Suggested Street Tree List.

#### **907.13 IMPROPER PLANTING.**

Whenever any tree shall be planted or transplanted in conflict with the provisions of this article; it shall be lawful for the City of Williamstown Tree Commission to remove or cause removal of the same, and the exact cost thereof may be assessed to and paid by the person responsible for the improper planting of such tree.

#### **907.14 EMERGENCIES.**

(a) No permit shall be required to remove any public tree or part thereof which by reason of damage by fire, windstorm, ice storm, or other calamity poses a threat to the public health and safety of which obstructs any public way, or has contributed to loss of utility service.

(b) The City may determine that a public tree is hazardous and order that it be treated or removed immediately to protect the public health or safety. A tree obstructing any public way may be removed or treated immediately. West Virginia Code Chapter 8. Municipal Corporations § 8-12-5-29

#### **907.15 REMOVAL, REPLANTING AND REPLACEMENT.**

(a) Whenever it is necessary to remove a tree or trees in connection with the paving of a sidewalk, or the paving or widening of a portion of a street used for vehicular traffic, the City may replant such trees or replace them. If it is impractical to replant in the same area, the Williamstown Tree Commission will designate an appropriate location for planting the replacement tree or trees.

(b) No person or property owner shall remove a tree from the City right-of-way for the purpose of construction, or for any other reason, without replacing the removed tree or trees. Such replacement shall meet the standards of size, species, and placement as provided by the Williamstown Tree Commission. The person or property owner shall bear the cost of removal and replacement of all trees so removed and replaced if replacement is deemed necessary by the Tree Commission.

(c) The City of Williamstown Superintendent of Public Streets, Parks, Public Improvements, and Public Property shall have the right to trim or remove such trees and shrubs within the lines of all streets, alleys, lands, and public grounds as may be necessary to insure safety to pedestrians and vehicular traffic and under the power herein given, may remove, cause, or order to be removed any tree, shrub, or part thereof, which is in an unsafe condition or which, by reason of its location, may be hazardous to pedestrians or vehicular traffic.

#### **907.16 TREE TOPPING.**

It shall be unlawful as a normal practice for any person or firm, to top any Street Tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where pruning practices are impractical, may be exempted from this article by determination of the Williamstown Tree Commission.

#### **907.17 PRUNING OF TREES AND SHRUBS OBSTRUCTING VIEWS.**

(a) It shall be the duty of any person or persons owning or occupying real property abutting on any street, avenue, or alley way upon whose property there are Yard Trees or Shrubs, to prune those trees or shrubs in such a manner that they will not shade or obstruct the streetlamps, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, obstruct vehicular traffic, or obstruct the view of any intersection. The minimum clearance of any overhanging portion thereof shall be eight (8) feet over sidewalks and fourteen (14) feet over all streets, avenues, and alley ways.

(b) Said owners shall remove all dead, decayed, or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The Tree Commission or the City shall have the right to prune any tree or shrub on private property where it interferes with the proper spread of light along the street from a streetlamp or interferes with visibility or any traffic control device or sign after said owner has been given a notice and said owner has been given a reasonable amount time to correct the issue. The Commission or the City will notify in writing the owners of such trees. Tree pruning may be done by the owner at his or her own expense within thirty (30) days after the date of service of written notice. In the event of failure of the owner to comply with such provisions, the City shall have the authority to

prune such trees and charge the cost of pruning to the owner, including the filing of a lien in the amount of the cost of the tree pruning.

(c) This section shall not be construed to require private property owners to prune, remove, or otherwise maintain trees located on town owned property or easements.

#### **907.18 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.**

(a) The Williamstown Tree Commission or the City shall have the right to cause the removal of any dead, dying, or diseased trees on public or private property within the City limits, when such trees constitute a hazard to the public, health, safety, and welfare.

(b) This authority includes, but is not limited to, trees that otherwise are on private property but overhang or otherwise protrude into public rights-of-way, streets, roads, highways, sidewalks, paths, and/or public utility lines.

(c) Further, this authority extends to and includes trees that may protrude into or otherwise affect an adjacent right-of-way, including underground utility lines, cables, pipes, or wires, such that it affects the use of the right-of-way in such a fashion as to pose a danger to the public health, safety, and welfare - including, but not limited to, damaging or having the potential to damage sewage lines, pipes, gas lines, electricity lines, and the like.

(d) The Commission or the City will notify in writing the owners of such trees. Tree removal, trimming, cutting and/or pruning, may be done by the owner at his or her own expense within thirty (30) days after the date of service of written notice. In the event of failure of the owner to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal to the owner, including the filing of a lien in the amount of the cost of the tree removal.

#### **907.19 ABUSE OR MUTILATION OF TREES.**

Unless specifically authorized by the Williamstown Tree Commission or the City, no person shall damage, cut, carve, transplant, or remove any Street Trees or Park Trees; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such trees, to come in contact with them; or set fire or permit any fire to burn when such fire or heat thereof will injure any portion of said tree.

#### **907.20 PLACING MATERIALS ON PUBLIC PROPERTY.**

(a) No person shall plant or set out any tree, shrub, or vine, or cause, authorize or procure any person to plant or set out any tree, shrub, or vine, in or upon any part of any public street or public place, except by written permit from the Tree Commission. The person making application must comply with all respects and with such conditions as are set forth in such written permit.

(b) All applications for said permits required by the provisions of this section shall be made on blanks furnished by the City and shall describe the work to be done and shall state the variety, size, and exact location of each tree, shrub, or vine. After the receipt of such an application, the Tree Commission shall investigate the locality where the tree, shrub, or vine is to be placed and shall take into consideration the normal growth and development of such tree, shrub, or vine. Each permit issued by the Tree Commission shall specify the location, variety, and size of each tree, shrub, or vine and method of planting, and shall be good only for the period stated therein.. There shall be no charge for such permits, but before any permit shall be issued for planting more than ten trees, shrubs, or vines, the Tree Commission may



request from the applicant a detailed declaration of intentions, either in the form of a planting plan or written statement containing such information as the Tree Commission may require.

(c) No trees shall hereafter be planted at the intersection of two or more streets or within twenty (20) feet of such intersection.

(d) No tree, shrub, or vine shall be planted where the clear space between the curb and the sidewalk is less than three (3) feet. No tree, shrub, or vine shall be planted nearer than one (1) foot from the curb line or outer line of the sidewalks.

(e) No tree, shrub, or vine shall be planted over existing water lines and sewer line that enter the home of the person making application.

#### **907.21 REMOVAL OF STUMPS.**

All stumps of Street and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. Eight (8) inches is the recommended depth.

#### **907.22 INTERFERENCE WITH WILLIAMSTOWN TREE COMMISSION.**

It shall be unlawful for any person to prevent, delay, or interfere with the Williamstown Tree Commission or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees or Yard Trees as authorized in this article.

#### **907.23 REVIEW BY CITY COUNCIL.**

The Williamstown City Council shall have the right to review the conduct, acts, and decisions of the Williamstown Tree Commission. Any person may appeal from any ruling or order of the Williamstown Tree Commission to the Williamstown City Council who may hear the matter and make the final decision. Any person wishing to appeal a decision of the Williamstown Tree Commission can obtain such "Appeal Form" from the City.

#### **907.24 SEVERABILITY.**

If any provisions of this article shall be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not invalidate any other provisions of this article. The City of Williamstown hereby declares that they have adopted each and every portion of this article separately regardless of the possible invalidity of any part thereof.

#### **907.99 PENALTY.**

Any person, firm, or corporation violating or failing to comply with any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of not less than twenty dollars (\$20.00) and not more than five hundred dollars (\$500.00).